

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

Enertechnix, Inc.,

Plaintiff,

V.

Syn-Fab, Inc.,

Defendant.

Civil Action No. 2:15-cv-744

COMPLAINT FOR PATENT INFRINGEMENT

JURY DEMANDED

Enertechnix, Inc. ('Enertechnix') alleges as follows against Defendant Syn-Fab, Inc. ('Syn-Fab').

PARTIES

1. Enertechnix is a Washington corporation having a principal place of business in Maple Valley, Washington.

2. Syn-Fab is an Alabama corporation having a principal place of business at 7863 Schillinger Park Road, Mobile, Alabama 36608.

JURISDICTION AND VENUE

3. This action arises under the patent laws (35 U.S.C. §§ 271, 281, and 289). Accordingly, original jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a).

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4. Syn-Fab has offered for sale and sold infringing high temperature and industrial process monitoring systems throughout the United States. Upon information and belief, Syn-Fab has also offered for sale and sold its infringing high temperature and industrial process monitoring systems within this judicial district. Syn-Fab is therefore subject to specific jurisdiction in this district.

5. For purposes of venue, Syn-Fab resides in the Western District of Washington pursuant to 28 U.S.C. § 1391(c). In addition, upon information and belief Syn-Fab has offered for sale and sold infringing goods in this district, making venue proper under 28 U.S.C. § 1391(b).

ENERTECHNIX AND ITS PATENTS

6. Since its inception in 1995, Enertechnix has developed and commercialized systems for measuring gas temperatures in large-scale boilers, as well as mid-infrared imaging systems for visual monitoring of conditions within high-temperature, particle-laden environments. Enertechnix is a leading producer of high-performance infrared imaging cameras and gas measurement tools, for example for use in boiler and furnace environments. The Enertechnix imaging developments have been innovative, resulting in the grant of multiple U.S. patents.

7. A first patent granted to Enertechnix is US patent 7,437,025. The '025 patent was granted in 2008 and is entitled "Sensing System for Detection and Control of Deposition on Pendant Tubes in Recovery and Power Boilers." The '025 patent was reexamined by the US Patent and Trademark Office, which confirmed the validity of the patent and issued a reexamination certificate on July 6, 2010. Enertechnix owns all rights in the '025 patent.

8. A second patent granted to Enertechnix is US patent 7,956,326, issued in 2011 and entitled "Infrared Imaging Sensor." Enertechnix owns all rights in the '326 patent.



9. Enertechnix makes and sells a range of infrared inspection cameras, and has marked all or substantially all of its commercial products with the numbers of the '025 and '326 patents.

INFRINGEMENT BY SYN-FAB

10. Syn-Fab has offered for sale and sold a variety of high temperature boiler and furnace cameras, operating in a mid-wave optical band.

11. For example, Syn-Fab offers for sale and sells the SF12 High Temperature Imaging System, in several versions that include the SF12M, SF12MM, and SF12MP. This product is described as being a “mid-wave optical system” and including a durable furnace lens. Syn-Fab marketing materials describe the SF12M as being suitable for use in recovery boilers. The Syn-Fab SF11 series High Temperature Imaging System is similarly described as having the same high temperature enclosures and cameras as the SF12 series but with a lens that has an adjustable field of view. The SF12 portable system is described as having the same infrared configuration in a portable size and a battery pack. The SF10 BID system is likewise described as being available in an infrared version for inspecting the inside of boilers and furnaces.

12. Syn-Fab may also offer and sell, or may have previously offered and sold, other versions of mid-wave inspection systems for use in high temperature environments in addition to those referred to with particularity above, but under different designations or different product names. Collectively, the Syn-Fab systems are referred to as the "Syn-Fab Mid-Wave Imaging Systems."

13. The Syn-Fab Mid-Wave Imaging Systems are within the scope of one or more claims of the '025 patent. Syn-Fab has directly infringed the '025 patent by making, using, selling, offering for sale, or importing the Syn-Fab Mid-Wave Imaging Systems, pursuant to 35 U.S.C. § 271.

14. The Syn-Fab Mid-Wave Imaging Systems are within the scope of one or more claims of the '326 patent. Syn-Fab has directly infringed the '326 patent by making, using, selling,



1 offering for sale, or importing the Syn-Fab Mid-Wave Imaging Systems, pursuant to 35 U.S.C.
 2 § 271. Upon information and belief, Syn-Fab has induced others to infringe the '326 patent by
 3 providing the Syn-Fab Mid-Wave Imaging Systems and encouraging its customers to use them
 4 in a knowingly infringing manner.

5 15. As a direct result of the infringement by Syn-Fab, Enertechnix has suffered, and
 6 will continue to suffer, damages in an amount to be established at trial.

7 16. Enertechnix provided notice to Syn-Fab of the '025 and '326 patents on or about
 8 July 8, 2014, and therefore Syn-Fab was aware of the patents at least as early as the date of the
 9 notice. At that time, Enertechnix expressly invited Syn-Fab to specify the wavelength of its Mid-
 10 Wave Imaging Systems in the event that they did not operate within the band of 3.5 to 4.1
 11 microns. Enertechnix further asked Syn-Fab to explain any basis upon which it believed its Mid-
 12 Wave Imaging Systems to be outside the scope of the '025 and '326 patents.

13 17. Syn-Fab responded by letter dated July 10, 2014. In that letter, Syn-Fab did not
 14 deny that its Mid-Wave Imaging Systems operated within the band of 3.5 to 4.1 microns, nor did
 15 Syn-Fab offer any explanation for how its Mid-Wave Imaging Systems were not within the
 16 scope of at least one claim of each of the '025 and '326 patents.

17 18. Enertechnix responded further by letter dated July 21, 2014. In that letter,
 18 Enertechnix reiterated its understanding that the Mid-Wave Imaging Systems operate in a band
 19 at about 4 microns, and within the band of 3.5 to 4.1 microns. Enertechnix yet again invited Syn-
 20 Fab to deny that proposition if it was incorrect, and to articulate any basis on which the Mid-
 21 Wave Imaging Systems were believed to be outside the scope of the claims of the '025 and '326
 22 patents. Syn-Fab has never offered any basis on which its Mid-Wave Imaging Systems could be
 23 considered to be outside the scope of at least one claim of each of the '025 and '326 patents.

24 19. Despite the foregoing express notice of the '025 and '326 patents, and the
 25 infringement by Syn-Fab, Syn-Fab has continued to offer and sell its Mid-Wave Imaging
 26 Systems.



20. Accordingly, the infringement by Syn-Fab has been willful in view of the awareness of the '025 and '326 patents and the continued sale despite such awareness of the patents and the fact of infringement.

21. Syn-Fab's infringement will continue in deliberate disregard of Enertechnix's rights, continuing to cause irreparable harm to Enertechnix, unless enjoined by this Court.

REQUEST FOR RELIEF

Enertechnix requests that the Court grant the following alternative and cumulative relief:

1. Preliminarily and permanently enjoin Syn-Fab from making, using, offering for sale, selling, or importing products that infringe the '025 and '326 patents, including the Syn-Fab Mid-Wave Imaging Systems;
2. Award Enertechnix damages sufficient to compensate for the infringement;
3. Award Enertechnix treble damages pursuant to 35 U.S.C. § 284 and any other applicable law;
4. Enter an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285 and any other applicable law;
5. Order Syn-Fab to deliver to Enertechnix its inventories of infringing articles for destruction by Enertechnix;
6. Enter an award of prejudgment interest and costs; and
7. Other and further relief as the Court may deem just and proper.

JURY DEMAND

Enertechnix demands a jury trial on all issues triable by jury.



1 DATED this 12th day of May, 2015.

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